Calendar No. 257

107TH CONGRESS *1st Session*	SENATE	REPORT 107–107

DISTRICT OF COLUMBIA FAMILY COURT ACT OF 2001

R E P O R T

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

TO ACCOMPANY

S. 1382

TO AMEND TITLE 11, DISTRICT OF COLUMBIA CODE, TO REDESIGNATE THE FAMILY DIVISION OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA AS THE FAMILY COURT OF THE SUPERIOR COURT, TO RECRUIT AND RETAIN TRAINED AND EXPERIENCED JUDGES TO SERVE IN THE FAMILY COURT, TO PROMOTE CONSISTENCY AND EFFICIENCY IN THE ASSIGNMENT OF JUDGES TO THE FAMILY COURT AND IN THE CONSIDERATION OF ACTIONS AND PROCEEDINGS IN THE FAMILY COURT, AND FOR OTHER PURPOSES

DECEMBER 5, 2001.—Ordered to be printed

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DISTRICT OF COLUMBIA FAMILY COURT ACT OF 2001

DECEMBER 5, 2001.—Ordered to be printed

Mr. LIEBERMAN, from the Committee on Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 1382]

The Committee on Governmental Affairs, to which was referred the bill (S. 1382) to amend title 11, District of Columbia Code, to redesignate the Family Division of the Superior Court of the District of Columbia as the Family Court of the Superior Court, to recruit and retain trained and experienced judges to serve in the Family Court, to promote consistency and efficiency in the assignment of judges to the Family Court and in the consideration of actions and proceedings in the Family Court, and for other purposes, reports favorably thereon with amendments and recommends that the bill do pass.

I. PURPOSE AND SUMMARY

The purpose of S. 1382, the District of Columbia Family Court Act of 2001, is to amend title 11, District of Columbia Code, to redesignate the Family Division of the Superior Court of the District of Columbia as the Family Court of the Superior Court, to recruit and retain trained and experienced judges to serve in the Family Court, to promote consistency and efficiency in the assignment of judges to the Family Court and in the consideration of actions and proceedings in the Family Court, and for other purposes.

II. BACKGROUND

Crisis of abused and neglected children in the District of Columbia

The crisis of abused and neglected children has challenged the District of Columbia for many years. The Washington Post reported recently that 229 children died between 1993 and 2000 while under the watch of the city's child protective services agency, Child and

Family Services Agency (CFSA).[1] The role of the District of Columbia Superior Court in handling abused and neglected children attracted heightened scrutiny after 23-month-old Brianna Blackmond, a child under court supervision, died in January 2000 at the hands of her mother's housemate only two weeks after a Superior Court judge returned the child to her troubled home without conducting a formal hearing.[2] Although the District of Columbia Inspector General found in an April 30, 2001 report that Brianna's death could be traced to errors and omissions by officials throughout the District of Columbia government—not only the judge who handled the case—including CFSA,[3] the case raised concerns about how the Superior Court handled its abuse and neglect cases.

Abuse and neglect cases had been posing a serious challenge to the court for some time before Brianna's death. The sheer number of the cases had been steadily growing in number since the early 1990's due to the crack cocaine epidemic in the District of Columbia at that time.[4] In 1992, the number of child abuse and neglect cases increased by more than 60 percent from the year before, from 833[5] to 1351[6]; 1994 saw a similar jump, from 1376[7] the year before to 1786.[8] The steady increase of this caseload was more than the family division judges could handle alone effectively. To help ease the docket, the chief judge assigned each of the 59 sitting judges a share of the child abuse and neglect caseload. As a result, judges outside the Family Division currently hear their abuse and neglect cases between their "regular" calendars, in some cases squeezed in during lunch breaks.[9]

In addition, the Superior Court has not been as effective as it could be in moving cases involving abused and neglected children. Currently, according to analysis done by the District of Columbia Superior Court in July 2001, there are 3592 abuse and neglect cases in review status that have been pending for two years or more, only 11 percent of which involve children living at home under the protective supervision of CFSA; all of the other more than 3200 cases involve children who have been removed from their homes.[10] Moreover, the Superior Court indicated that it expected less than half of these long-standing abuse and neglect review cases to be closed within 12 months.[11] The Adoption and Safe Families Act (ASFA) requires that, with certain exceptions, cases

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[1] "'Protected' Children Died as Government Did Little; Critical Errors by City's Network Found in 40 Fatalities; Confidential Files Show Wide Pattern of Official Neglect," *Washington Post,* September 9, 2001.

[2] "'Failure After Failure'; Foster System Betrayed Brianna," *Washington Post,* February 21, 2000.

[3] "Report of Investigation Into the Role of the Child and Family Services Agency and the Circumstances Leading to the Death of BB," District of Columbia Office of the Inspector General, April 30, 2001 (OIG No. 2000–0227 (S)), pp. 6–7.

[4] "Child Neglect, Abuse Up 60% in D.C.; Sharp Increase in Court Cases Linked to Crack Cocaine, Recession," *Washington Post,* May 20, 1992.

[5] "For D.C. Child Abuse Caseload, a Troubling Milestone," *Washington Post,* September 24, 1992.

[6] "District Child Abuse Reports Arriving in Record Numbers," *Washington Post,* April 11, 1994.

[7] "District Child Abuse Reports Arriving in Record Numbers," *Washington Post,* April 11, 1994.

[8] "D.C. Court Workers Shocked by Child Sex-Abuse Cases," *Washington Post,* April 25, 1994.

[9] "D.C. Judges Try to Raise 3,200 Abused or Neglected Children," *Washington Post,* January 9, 1994.

[10] "Abuse and Neglect Caseload Data," District of Columbia Superior Court (unpublished), July 2001, p. 1.

[11] "Abuse and Neglect Caseload Data," District of Columbia Superior Court (unpublished), July 2001, p. 2 (based on an internal survey of the judges handling the outstanding cases).

of children in foster care or other temporary placement must reach permanency within a certain timeframe, which is less than 2 years. It is impossible to know how many of these cases genuinely qualify under the ASFA exceptions that permit them to remain pending beyond the required deadlines.

The dispersal of abuse and neglect cases to all 59 judges and to some of the 18 senior judges of the Superior Court has contributed to these shortcomings. It has caused logistical problems for CFSA social workers, Office of Corporation Counsel attorneys, guardians ad litem, and others involved in child welfare who must be present for hearings in all of their cases.[12] Hearings can take place at any time of the day, in any courtroom—sometimes simultaneously—not only making it difficult for these individuals to attend all their hearings, but also making it hard for social workers to spend the necessary time in the field, visiting children and families. If the necessary participants are not present or have not had adequate preparation time, it can be difficult for judges to move cases forward.[13]

It is important to point out, however, that lapses on the part of CFSA cannot be laid solely at the doorstep of the Superior Court. The crisis of abused and neglected children in the District of Columbia can be traced largely to long-standing problems within CFSA and other city agencies dealing with child welfare. In 1989, the American Civil Liberties Union filed a class action lawsuit in federal court on behalf of all abused and neglected children in the District of Columbia to force reforms in the system. At that time, children awaiting foster care placements were left for days at a time in the office of the child and family services agency (then a division of the District of Columbia Department of Human Services) to sleep on the floor, chairs or cots,[14] and the average stay in foster care for a District of Columbia child was nearly five years, more than three times the national average.[15]

After the 1991 trial, United States District Judge Thomas Hogan found that as a result of indifference and poor management, the city had failed to comply with reasonable professional standards in almost every area of its child welfare system.[16] Specifically, the court found that due to dire staffing and resource shortages, the child welfare agency had failed to conduct timely investigations of reports of neglect or abuse, failed to find appropriate placements for children, failed to monitor their care, and failed to ensure that these children had permanent homes. The Division was put into receivership in 1995,[17] and emerged on July 15, 2001, after a May 21, 2001 order by Judge Hogan finding that the District had met preconditions to regain control of CFSA set by an earlier order. The preconditions included prohibiting budget cuts and layoffs; increasing the number of home visits by social workers; passing legislation that would place the responsibility for investigating abuse and ne-

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[12] Written Testimony of Olivia Golden, Director of the District of Columbia Child and Family Services Agency, to the Senate Committee on Governmental Affairs, Subcommittee on Oversight of Government Management, Restructuring, and the District of Columbia, October 25, 2001, at p. 9.

[13] "Judges Describe Agonizing Decisions," *Washington Post*, January 16, 2000.

[14] "Conditions 'Shocking' for District Children Awaiting Foster Care; Welfare System Needs Leaders, Receivers Say," *Washington Post,* March 2, 1995.

[15] *LaShawn A.* v. *Dixon,* 762 F. Supp. 959, 968 (D.D.C. 1991).

[16] 762 F. Supp. at 982–983.

[17] *LaShawn A.* v. *Kelly,* 887 F. Supp. 297 (D.D.C. 1995).

glect cases with Child and Family Services rather than splitting the duty between the police and the agency; developing licensing standards for foster care and group homes; and elevating the agency to cabinet-level status.[18]

Unfortunately, according to a December 2000 report by the United States General Accounting Office (GAO), federal receivership did not offer the solution the *LaShawn* plaintiffs had sought in 1989.[19] GAO found that more than five years after the inception of the receivership, CFSA had still not addressed its problems with high turnover, hiring shortfalls, and inadequate training. As of one year ago, caseloads were still much too high: in some cases, double or triple the limit set by the court. While the number of children under the agency's care increased, the number of social workers covering their cases declined: in December 1997, 2,900 children were in foster care with 289 social workers at the agency; by August 2000, 3,271 children were in foster care with only 241 social workers employed by the District to address their needs.[20] Thus, child welfare reform cannot be complete without resolving these long-standing problems at CFSA.

Nevertheless, the tragic death of Brianna Blackmond put a fresh face on the crisis. A media spotlight on a Superior Court judge's decision to return the child to her troubled home without a hearing sparked interest in addressing the court's administration of abuse and neglect cases. Unlike CFSA, which is under District control, Superior Court reform can only be legislated by Congress.

Family matters and the District of Columbia court system

The District of Columbia local court system is a federal responsibility pursuant to Congress' constitutional authority over the District.[21] It was created by statute in 1801, and since that time, has gone through a number of reforms.[22] For over 60 years, the District of Columbia court system had a separate Juvenile Court, which had jurisdiction over cases regarding children under 18, contributing to the delinquency of minors, paternity matters, and later, cases of desertion and criminal non-support,[23] though many family cases, including divorce, adoption, custody and domestic violence, were heard by the Court of General Sessions.[24] According to Congresswoman Eleanor Holmes Norton, one of the House sponsors of the District of Columbia Family Court Act, "[t]he old Family Court, then called 'Juvenile Court,' was a stand-alone court, that had become a place apart, in effect a ghetto court, to which the city's most

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[18] "D.C. Regains Control of Foster Care; Child Welfare Goes to a New Agency," *Washington Post,* October 24, 2001.

[19] District of Columbia Child Welfare: Long-Term Challenges to Ensuring Children's Well-Being," GAO Report to the House of Representatives Committee on Governmental Reform Subcommittee on the District of Columbia, December 2000 (GAO–01–91) ("GAO Report").

[20] GAO Report at p. 7.

[21] Article I, Section 8, Clause 17 of the United States Constitution gives Congress exclusive jurisdiction over the District of Columbia; Congress retained its authority over the local courts in the District of Columbia Self-Government and Governmental Reorganization Act of 1973 and took exclusive budget authority over the courts pursuant to the National Capital Revitalization and Self-Government Act of 1997.

[22] For a detailed description of the history of the courts in the District of Columbia, see the attached appendix, which is incorporated by reference herein.

[23] Hearing Report, Committee on the District of Columbia and Subcommittee on Improvements in Judicial Machinery of the Committee on the Judiciary, United States Senate, 91st Congress, First Session, May 19–22, July 25–27, and August 7, 1969 ("D.C. Courts Hearing Report"), at p. 580.

[24] D.C. Courts Hearing Report at 575.

troubled children and families were sent away from the 'real' judicial system. Out of sight left children and families out of mind until the Juvenile Court was abolished as hopelessly ineffective and poorly funded." [25]

In the late 1960's, the Senate Committee on the District of Columbia became concerned about the District of Columbia courts, and began looking into avenues of reform. The Committee conducted an exhaustive review of the courts, and sought recommendations from a number of groups and commissions about what form a new court system should take. Some, such as the President's Commission on Crime in the District of Columbia, believed that the Juvenile Court should be retained and strengthened into a Family Court for all family cases, separate from the court of general jurisdiction.[26]

This recommendation was not shared by the Ad Hoc Committee on the Administration of Justice, a group comprised of attorneys and court experts established by the Judicial Council of the District of Columbia. The Ad Hoc Committee criticized the notion of a splintered court, quoting Roscoe Pound: "Multiplicity of courts is characteristic of archaic law." [27] The Ad Hoc Committee pointed out that "[t]he Juvenile Court has been in trouble for many, many years, and is at the moment in serious trouble. It lacks strength and cannot be adequately managed since it is not a part of the central court system of our city." [28] Instead, the Ad Hoc Committee advocated for including the family bench under the umbrella of a single court of general jurisdiction. Specifically, it claimed that "[h]aving a larger pool of judges who could move in and out of the Juvenile division and other parts of the court would broaden a judge's judicial experience, keep him abreast of general development of the law, and ensure a higher quality of judiciary, because judges who might refuse to specialize in a steady diet of one aspect of the law would be willing to serve for shorter periods of time." [29] The Ad Hoc Committee also recommended that the family bench be fully integrated into the court to allow the chief judge the necessary flexibility to manage it. It criticized the then-current domestic relations branch of the Court of General Sessions, which had its own list of judges and clerks, and operated separately from the Court, because the chief judge had "no power to rotate judges in and out of the domestic relations branch." [30]

In 1970, Congress took the advice of the Ad Hoc Committee and passed the District of Columbia Court Reform and Criminal Procedure Act of 1970,[31] which abolished the Juvenile Court and established the unified court system that exists today. The District of Columbia Superior Court was established as a court of general jurisdiction, with five branches: family, civil, criminal, tax and probate. Currently, the Superior Court is composed of 58 judges and one chief judge. In addition to its five divisions, it recently established a cross-jurisdictional domestic violence unit. In an average

[25] Written Testimony of Delegate Eleanor Holmes Norton, to the Senate Committee on Governmental Affairs, Subcommittee on Oversight of Government Management, Restructuring, and the District of Columbia, October 25, 2001 ("Norton Testimony"), at p. 2.
[26] D.C. Courts Hearing Report at p. 581.
[27] D.C. Courts Hearing Report at p. 582.
[28] D.C. Courts Hearing Report at p. 583.
[29] D.C. Courts Hearing Report at p. 581.
[30] D.C. Courts Hearing Report at p. 582.
[31] P.L. 91–358, 84 Stat. 473.

year the Court may dispose of upwards of 160,000 cases, with 14,000 in the family division alone.[32]

Currently, Superior Court judges, who are appointed for a total term of 15 years after a rigorous selection process,[33] fit the model recommended by the Ad Hoc Committee on the Administration of Justice: they are generalists who serve extendable one-year terms in the different divisions of the Court, with assignments left to the discretion of the chief judge. All of the 59 judges have some of the current caseload of the approximately 4,500 abuse and neglect cases on their dockets, even if they have never sat on the family bench.

The need for legislation

The bill's sponsors were concerned about how abused and neglected children with cases before the Superior Court are affected by its current system. They noted that many of those with the weighty responsibility of deciding the fate of abused and neglected children are not well acquainted with the intricacies of family law, the tangled bureaucracy responsible for children in the District of Columbia, or the complex network of resources available to families and children in trouble.[34] Despite the rigorous and extensive judicial selection process,[35] few candidates with family law experience are nominated to the Superior Court bench. Further, with abuse and neglect cases dispersed throughout the entire court, most judges who have these cases do not sit in the Family Division; if they ever have, they rotated through that division for only an "average judicial term [of] about one year."[36] Thus, as Senator DeWine, the lead sponsor of the Senate bill, put it, under the current system, "[j]udges don't get the training, the technical support, nor the experience they need to properly handle these cases."[37]

Moreover, as Senator DeWine has said, "the currently spread-out system is a structural nightmare."[38] Caseworkers, attorneys from the District of Columbia Corporation Counsel's Office, guardians ad litem, and other participants necessary for hearings in neglect and abuse cases must accommodate the schedules of all 59 judges of the Superior Court, shuttling between courtrooms and waiting for their cases to be called. This time-consuming system not only makes it difficult for caseworkers and others to make it to all the hearings

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[32] 2000 Annual Report, District of Columbia Courts, p. 58.

[33] Superior Court judges are appointed by the President and confirmed by the Senate. The President makes his selection from a list of three names provided to him by the District of Columbia Judicial Nominations Commission, which chooses from among a pool of applicants, who must be residents of the District who have practiced there for a certain number of years. This process usually involves extensive screening by the District of Columbia Nominations Commission, a Federal Bureau of Investigation background investigation and a thorough review by this Committee of the candidate's qualification and background.

[34] According to Congressman Tom DeLay, lead sponsor of the House version of the bill, "Judges outside of the Family Division don't have the current knowledge about the availability or quality of service options or new laws and new regulations impacting the children before them. . . . I believe the best thing we can do for abused children in the District is to return all cases to a family court made up of committed judges who are all volunteers. Only their specialized knowledge of relevant federal and district laws will result in better decisions for abused children." Written Testimony of the Honorable Tom Delay, to the Committee on Governmental Affairs, Subcommittee on Oversight of Government Management, Restructuring, and the District of Columbia, October 25, 2001 ("DeLay Testimony"), at p. 5.

[35] See footnote 33 above.

[36] Written Testimony of the Honorable Mike DeWine, to the Senate Committee on Governmental Affairs, Subcommittee on Oversight of Government Management, Restructuring, and the District of Columbia, October 25, 2001 ("DeWine Testimony"), p. 3.

[37] DeWine Testimony at p. 2.

[38] DeWine Testimony at p. 2.

they must attend, it also takes a significant amount of time away from their fieldwork responsibilities.[39] Dispersing abuse and neglect cases throughout the court also means that a cohesive and integrated case management system cannot be maintained.[40] In addition, mixing family cases with other types of matters on a judge's calendar can mean that children and families waiting for hearings may be occupying the same hallways together with criminal defendants and others, in an atmosphere that neither facilitates open and meaningful discussion of their most personal problems nor guarantees their cases receive the focused attention of the court.

Finally, cases involving the same family are often heard by different judges, which means that the knowledge one judge may have gained over time about the problems unique to that family will not be drawn on.[41] As Congressman Tom DeLay, sponsor of the House version of the bill, has said, "We must put together all the pieces of the child's life before we determine whether it's safe for a child to go home, remain in a particular foster home or facility, or be placed for adoption. A child is safer when a single judge understands the whole story of his or her life. Multiple judges increase the chance of errors or vital information not being considered."[42]

Rufus G. King III, the current chief judge of the Superior Court, has made an effort to answer critics of this system. He has issued administrative directives which increase Family Division terms to three years beginning in January 2002, provide enhanced and additional training for Family Division judges, institute an alternate dispute resolution mechanism, and establish stronger working relationships between the court and city agencies responsible for child and family services.[43] While the chief judge has made significant strides to achieve positive change, more is required to "give these judges the tools they need to do their jobs—to protect the lives of these innocent children."[44]

Summary of S. 1382 as introduced

S. 1382, as introduced, would have changed the structure of the Court by redesignating the Family Division of the Court as a "Family Court" comprised of 12 to 15 judges and a number of magistrates. Under that version of the bill, the guiding principle of the Family Court would be "one family, one judge," dictating that all family members would see the same judge or magistrate—barring conflicts of interest that may arise—for all family-law matters they had pending before the court. Family Court judges appointed after enactment would serve five-year terms, and sitting Superior Court

[39] Written Testimony of Deborah Luxenberg, Council for Court Excellence, to the Senate Committee on Governmental Affairs, Subcommittee on Oversight of Government Management, Restructuring, and the District of Columbia, October 25, 2001 ("Luxenberg Testimony"), at p. 6.
[40] DeLay Testimony at p. 3.
[41] Senator Mike DeWine testified that "at the heart of the bill is the one-judge/one-family concept, which is designed to create judicial continuity, so that families aren't shuffled from one judge to another. This allows one judge to stay with one family throughout that family's experience in the welfare system. The simple fact is that if a judge who knows the entire history of a family, he or she can better protect the interests of the children and the parents involved." DeWine Testimony at p. 3.
[42] DeLay Testimony at p. 3.
[43] Written Testimony of the Honorable Rufus King III, Chief Judge of the Superior Court of the District of Columbia, to the Committee on Governmental Affairs, Subcommittee on Oversight of Government Management, Restructuring, and the District of Columbia, October 25, 2001, ("King Testimony") at pp. 3–4.
[44] DeWine Testimony at p. 2.

judges would serve three-year terms, and the judges sitting on the family bench would have to be trained or expert in family law.

After an 18-month transition period, all family cases pending in Superior Court would have been transferred to the dockets of judges or magistrates sitting on the Family Court bench. The hiring of magistrates with significant expertise in family law would be authorized, and current hearing commissioners would be treated as magistrates to give them additional power to move cases. Appointment of a special master would be required to help dispose of the thousands of neglect and abuse cases currently pending. The court would be required to create for the Family Court a "family friendly" environment, have a social services liaison on-site at all times, and establish an electronic case management and tracking system to be integrated with the systems of District of Columbia agencies providing social services to children and families. The chief judge would be required to submit a transition plan to Congress on an 18-month timetable within 90 days of enactment. GAO would be required to submit a report assessing the procedures used to make initial judicial appointments, the impact of magistrates, and the number of judges needed for the Family Court.

Concerns raised about S. 1382 as introduced

For the most part, the District of Columbia Family Court Act of 2001 as introduced would take important steps towards improving the court system. Nonetheless, some concerns have been raised about its specific terms from, among others, Superior Court judges and administrators and members of the Family Law Section of the District of Columbia Bar. Some contended that the five-year terms for Family Court judges were too long for the emotionally taxing work of the family bench.[45] Concerns ranged from fears of "burnout" as judges approached the final years of their terms, to deterring strong candidates without significant family law backgrounds from seeking judgeships on a court with such daunting term requirements.[46] Another concern about the bill was that it unduly restricted the discretion of the chief judge as the top administrator by not allowing him to make important court management decisions.[47] For example, the bill set a minimum number of judges for Family Court and permitted the chief judge to reassign a Family Court judge only if he determined that the judge was "unable, for cause, to continue serving in the Family Court." Particularly given the long term, this could be overly restrictive because the negative connotations of requiring a determination of cause to remove a judge might deter the chief judge from reassigning judges—even where warranted—except in the most extreme of circumstances.

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[45] *See, e.g.,* Written Testimony of Margaret McKinney, Family Law Section of the District of Columbia Bar, to the Senate Subcommittee on Oversight of Government Management, Restructuring, and the District of Columbia of the Committee on Governmental Affairs, October 25, 2001 ("McKinney Testimony"), at pp. 3–8;. Written Testimony of Kathy Patterson, District of Columbia City Councilmember and Chairman of Council Committee on the Judiciary, to the House Subcommittee on the District of Columbia of the Committee on Government Reform, June 26, 2001 ("Patterson Testimony"), at p. 3.

[46] The Florida Supreme Court's Family Court Steering Committee, after a seven year study, recommended three-year terms, with an opportunity for the judge to rotate out of the family division for a period of time following his or her term, before returning to the family bench. *See* "A Model Family Court for Florida: Recommendations of the Florida Supreme Court's Family Court Steering Committee," June, 2000, at p. 15.

[47] *See, e.g.,* McKinney Testimony at pp. 8–9; Luxenburg Testimony at p. 6.

Another concern about the bill as introduced was that all pending family cases would have to be transferred into the Family Court by the end of the 18-month transition period, with no exceptions.[48] In the October 25, 2001 hearing on this bill in the Senate Subcommittee on Oversight of Government Management, Restructuring, and the District of Columbia, questions were raised about two aspects of this provision: first, all family cases would include divorce, child support, and mental health cases, which would mean that the new court would be inundated with thousands of new cases unrelated to abused and neglected children; and second, no exception would exist for a judge who does not sit in the Family Court to keep a case on her docket where she has formed a special relationship with or understanding of a troubled child, whose case cannot be resolved within the transition period. Finally, some were concerned that the language of S. 1382, as introduced, might have dismantled the cross-jurisdictional Domestic Violence Unit by divesting it of jurisdiction over family cases, or might have prevented the court from instituting other cross-jurisdictional units.[49]

How the amendment refines the bill

To address these concerns, the Committee adopted an amendment in the nature of a substitute to S. 1382, which was introduced by Senator Durbin, with Senators DeWine and Landrieu, the sponsors of the bill. Although the term lengths for Family Court judges were left at five years for new judges and three years for current judges, the bill as amended would provide the chief judge more flexibility to reassign judges on the family bench when he "determines in the interest of justice the judge is unable" to finish the full term. This change would protect the interests of children in two ways: it would retain the requirement that judges seeking a seat on the Family Court demonstrate a serious commitment by agreeing to devote a substantial part of their career to it, but it would allow the chief judge to reassign a judge when he or she is simply not serving the interests of children and families. The amendment also gives the chief judge more flexibility by removing the minimum number of judges required to serve on the Family Court. It will be in the chief judge's discretion to determine, over time, how many judges up to 15 are required on the family bench to appropriately serve the needs of families and children of the District. If necessary, the chief judge may expand the Family Court beyond 15 judges on an temporary basis.

The chief judge is also provided flexibility by being able to allow judges to retain abuse and neglect cases outside the Family Court under certain circumstances. Such cases should be rare exceptions because a primary goal of the legislation is to have family cases—particularly cases involving abuse and neglect—handled by Family Court judges under the one family, one judge principle. Nevertheless, S. 1382 as amended would give the chief judge the flexibility to permit a judge outside the Family Court to retain a case he or she has had for more than 18 months, where the judge has special knowledge of the child's needs and reassignment would be harmful

[48] Patterson Testimony at pp. 5–6; King Testimony at p. 6.

[49] Norton Testimony at p. 3; Luxenberg Testimony at p. 8; King Testimony at p. 7; McKinney Testimony at p. 16; "Steamrolling the Superior Court," *Washington Post* Editorial, October 25, 2001.

to the child, so long as the case remains at all times in full compliance with the Adoption and Safe Families Act. In addition, under similar exceptional circumstances, cases may be retained by Family Court judges who complete their full Family Court term and are rotating to another Superior Court division. The chief judge must determine, in consultation with the presiding judge of the Family Court, that retention is in the best interest of the parties, the judge has special knowledge of the child's needs and reassignment would be harmful to the child. Finally, the amended bill would ensure that the Domestic Violence Unit is kept intact.

Despite the many areas of concern that the amended bill has addressed, there are a number of issues unresolved, including the effect of the five-year term of service for Family Court judges on the morale and recruitment of judges, the ability of the chief judge to rotate judges in and out of the Family Court, and the exceptions allowing judges outside of the Family Court to retain cases within the jurisdiction of the Family Court. These concerns echo those expressed by the Ad Hoc Committee on the Administration of Justice in connection with the 1970 restructuring of the District of Columbia courts, relating to fragmentation in the court and hindering the flexibility of the chief judge to manage the court. S. 1382 would provide that the Superior Court report periodically to this Committee on its progress in putting the reforms into place; the Committee will carefully review these reports and monitor the Superior Court's implementation of the reforms with particular emphasis on the unresolved concerns discussed above.

III. Legislative History

S. 1382, the District of Columbia Family Court Act of 2001, was introduced on August 3, 2001 by Senators Michael DeWine and Mary Landrieu and referred to the Senate Committee on Governmental Affairs. On September 10, 2001 the Committee on Governmental Affairs referred the bill to the Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia.

On October 25, 2001, the Oversight of Government Management, Restructuring and the District of Columbia conducted a hearing on "Promoting the Best Interests of Children: Proposals to Establish a Family Court in the District of Columbia Superior Court." This hearing was an opportunity to consider the components of S. 1382 and a similar House bill, H.R. 2657, including placing all cases involving one family before one judge, assigning a team of magistrates and social workers to assist the judicial function, mandating minimum terms for service for judges on the "family court," and transferring all child abuse and neglect cases now dispersed across the court back under a "family court" helm.

Member witnesses testifying before the subcommittee were Senator Michael DeWine and Senator Mary Landrieu, the lead sponsors of S. 1382, and Congressman Tom DeLay and Congresswoman Eleanor Holmes Norton, the lead sponsors of H.R. 2657. Representatives of the District of Columbia judicial and social services systems and legal community directly involved in handling and litigating child abuse and neglect matters also testified: the Honorable Rufus G. King III, Chief Judge of the Superior Court of the District of Columbia; the Honorable Lee Satterfield, Presiding Judge of the

Family Division of the Superior Court; Dr. Olivia Golden, Director of the District of Columbia Child and Family Services Agency; Deborah Luxenberg, Chairman of the Children in the Courts Subcommittee of the Council for Court Excellence; and Margaret McKinney, Chairman of the Family Law Section, District of Columbia Bar.

S. 1382 was polled out of the Oversight of Government Management, Restructuring and the District of Columbia Subcommittee on November 12, 2001. On November 14, 2001, S. 1382 was considered by the full Committee on Governmental Affairs. A substitute amendment was offered by Senator Richard Durbin. The Durbin amendment was adopted by voice vote, with no Members present dissenting. S. 1382, as amended, was ordered reported out of the Committee of Governmental Affairs by voice vote, with no Members present dissenting. Present were Senators Akaka, Durbin, Cleland, Carper, Carnahan, Thompson, Voinovich, Cochran, Bunning and Lieberman.

IV. Section-by-Section Analysis (As Amended)

Section 1 entitles the Act as the "District of Columbia Family Court Act of 2001."

Section 2 re-designates the existing family division of the District of Columbia Superior Court as the Family Court and makes conforming amendments to the District of Columbia Code. It reorganizes the current structure of the court, establishing a specialized group of judges, assisted by a team of magistrates, to focus on making expeditious decisions in litigation involving families and children, including abused and neglected children. The nationally-acclaimed Domestic Violence Unit, which handles cross-jurisdictional criminal, civil, and family issues, would be retained intact as a separate unit of the Superior Court, permitting appropriate cases to be assigned to such unit and not subsumed by or brought within the new Family Court.

Section 3 sets out the composition of the Family Court, including appointment and assignment of judges, the number of judges, and qualifications for Family Court judges. This section addresses concerns expressed about the present practice of giving each of the 59 judges of the Superior Court a child welfare caseload in addition to his or her other responsibilities. It also aims to keep all child abuse and neglect cases, with very limited exceptions, within the Family Court, promoting the principle of "one family, one judge." The intent of the "one family, one judge" language is for the case to be assigned to a specific judge in the Family Court at the time the case is first brought to court, and for this judge to conduct all subsequent hearings, conferences and trials. The Committee believes that use of a single judge or magistrate rather than a multitude of judges as the case progresses can ensure that a case plan is developed in a logical, step-by-step manner and provide greater consistency and continuity for families involved in the process. Such reforms can aid compliance with Federal law for the timely placement and adoption of children.

Subsection 3(a) adds a new section to the District of Columbia Code that sets forth special rules regarding assignment and service of judges of Family Court. It requires that the number of judges serving in the Family Court be no more than 15. The amendment

adopted by the Committee removes the minimum number of 12 judges set forth in the underlying bill, to afford the chief judge flexibility to address unforeseeable future needs of the court. Although a minimum number is not imposed, the Committee understands that the Court should maintain a minimum of 12 judges in the Family Court to meet the needs of the current case flow.

Should the case flow of the Family Court increase to a point where 15 judges cannot keep up with their dockets, this subsection allows the chief judge to expand the number of judges serving on the Family Court beyond 15 judges by temporarily assigning to the Family Court qualified judges from other divisions in emergency circumstances in order to meet the intent of the law. Such judges temporarily reassigned under such circumstances would be encouraged, but not required, to serve the full term of a Family Court judge, but they must have training or experience in family law. To the greatest extent possible, the qualified judges enlisted by the chief judge to fill the need on the Family Court under this subsection should be volunteers.

Subsection 3(a) also modifies the restriction in §11–903 of the District of Columbia Code on the total composition of the Superior Court to allow the chief judge to exceed the overall cap of 59 judges if necessary to maintain a full complement of 15 judges in the Family Court. The chief judge may do this, however, only if the number of judges on the Family Court is less than 15, the chief judge is unable to secure a volunteer judge from another division to transfer to the Family Court bench, the chief judge obtains approval from the Joint Committee on Judicial Administration, and the chief judge reports to Congress about why it is necessary to exceed the cap.

Subsection 3(a) also establishes the qualifications for a judge serving on the Family Court. It requires that a Family Court judge have training or expertise in family law, as well as a certified intention to serve the full term and participate in training. This subsection also sets forth the term of service for judges on the Family Court. For judges sitting on the bench at the time of enactment, the term of service would be three years, including any period of time served on the Family Division immediately preceding the enactment. For judges who take the bench after enactment, the term of service would be five years. This subsection permits assignment for additional service at a judge's request, including service for a judge's full 15 year term, with the approval of the chief judge. This subsection also permits the chief judge to reassign any Family Court judge if the chief judge determines that in the interest of justice the judge is unable to continue serving in the Family Court. Senior judges are exempted from the three-year term requirement; however, in assigning senior judges to the Family Court, the Committee encourages the chief judge to keep in mind the goals of this legislation to have judges on the Family Court for a sufficiently lengthy period to provide consistency to the operation of the Family Court.

Subsection 3(b)(1) requires the chief judge of the Superior Court to submit a transition plan to Congress and the President not later than 90 days after enactment. The plan should analyze and describe the role of the presiding judge of the Family Court, the number of judges and magistrates needed in the Family Court, the ap-

propriate functions and compensation for the magistrates, a plan for case flow and case management, a plan for space and equipment, a plan for the disposition or transfer of child abuse and neglect cases pending before judges serving in other divisions of the Court, and an estimate of the number of cases for which the transfer or disposition deadline of 18 months cannot be met and why.

Subsection 3(b)(2) specifies that the chief judge may not take any action to implement the transition plan until 30 days after filing such plan with the President and the Congress.

Subsection 3(b)(2) provides for the implementation of the plan to dispose of or transfer the child abuse and neglect cases within 18 months after filing a transition plan as outlined in subsection 3(b)(1). It adds a rule of construction that this 18-month deadline does not preclude transfer of cases well before the deadline, or even immediately. Indeed, the Superior Court is encouraged to begin the process of transferring appropriate cases outside the Family Division into the Family Court as soon as practicable.

Subsection 3(b)(2) also allows cases pending before judges serving in other divisions to be retained by those judges in special circumstances. Retention is permitted provided if (1) the case retained remains at all times in full compliance with the Adoption and Safe Families Act [42 U.S.C. 675(5)(E)] ("ASFA"); (2) the case has been assigned continuously to that judge for 18 months or more; and (3) the judge has a special knowledge of the child's needs, such that reassignment would be harmful to the child. The Committee intends that only a very small number of cases be retained under this provision; to the greatest extent possible, cases under the jurisdiction of the Family Court that are on the dockets of non-Family Court judges should be transferred into the Family Court. This will facilitate not only the needs of the children and families involved in those cases, but also will help the entire system to operate more smoothly.

Subsection 3(b)(2) also requires that the Superior Court provide progress reports to Congress at six-month intervals for two years. The purpose of the reports is to monitor the implementation of the reforms set forth in the bill, including the court's transfer of cases into the Family Court.

Subsection 3(c) establishes the process for filling judicial vacancies on the Family Court and the role of the District of Columbia Judicial Nomination Commission.

Subsection 3(d) requires the Comptroller General to prepare and submit to Congress not later than two years after enactment of the Act a report which includes an analysis of the procedures used to make initial appointments to the Family Court, the impact of the magistrates, and the number of judges needed for the Family Court. The Comptroller General is required to provide to the chief judge a preliminary copy of the report and take the comments and recommendations of the chief judge into consideration in preparing the final version of the report.

Section 4 sets forth the jurisdiction of the Family Court, encourages the use of alternative dispute resolution, and establishes a "one family, one judge" requirement where it is practicable, feasible, and lawful. It establishes a training program for judges, magistrates, attorneys, and non-judicial personnel. It requires the establishment of a "family-friendly" environment and an integrated

computerized case tracking system. This Section also requires the Mayor of the District of Columbia to establish an on-site social services liaison to coordinate with the Court and to provide information about relevant city services. This Section further requires the chief judge to submit annual reports to Congress on the activities of the Family Court during the year.

Subsection 4(a) adds several new sections to the District of Columbia Code. One section enumerates the specific areas of Family Court jurisdiction. Another section specifies that until disposition, cases must remain within the Family Court governed by the "one family, one judge" principle, but cases must also remain in the Family Court even after the judge handling those cases completes his or her full term on the Family Court and rotates out to another division.

Subsection 4(a) provides an exception to this rule, which would permit certain narrowly defined cases to stay on that judge's docket. For a judge leaving the Family Court to retain a case, (1) the case must be in compliance with ASFA; (2) it cannot stay on the judge's docket for more than 18 months after leaving the Family Court; (3) the judge must have special knowledge of the child's needs, such that reassignment would be harmful to child; and (4) the chief judge, in consultation with presiding judge of the Family Court, must determine that retention of the case is in the best interests of the parties. As with the exception provided under subsection 3(b)(2), the Committee intends that only a very small number of cases be retained by judges pursuant to this provision. In addition, the Committee recommends that any further proceedings in family cases retained by a judge rotating out of the Family Court be conducted in courtrooms or space designated for the Family Court, to the greatest extent possible. The Committee believes that this will minimize the burden on litigants and social workers involved in these cases, and be conducive to maintaining a family-friendly environment.

Subsection 4(a) also establishes a new District of Columbia Code section requiring the chief judge to submit annual reports to Congress on Family Court activities, including information on compliance with deadlines and performance measures as well as information on the number of judges serving in Family Court, how long each judge has served, the number of cases retained outside the family court, the number of judicial reassignments to and from the Family Court bench, and the ability to recruit qualified sitting judges from within the Superior Court to serve on the Family Court bench.

Subsection 4(b) provides for expedited appeals for orders of the Family Court terminating parental rights or granting or denying a petition to adopt.

Subsection 4(c) requires that not later than six months after enactment of the Act, the Mayor of the District of Columbia must submit a plan to the President and Congress for integrating the computer systems of relevant District of Columbia government agencies with the computer systems of the Court and authorizes funds to be appropriated for completion of the plan.

Subsection 4(d) makes clerical amendments to the table of sections in chapter 11 of title 11 of the District of Columbia Code.

Section 5 re-designates hearing commissioners as magistrates in the District of Columbia Code.

Subsection 5(b) allows any individual serving as a hearing commissioner as of the date of enactment of the Act to be reappointed as a magistrate. It also permits hearing commissioners appointed prior to enactment of this Act to become magistrates without meeting the residency requirement.

Subsection 5(c) makes the amendments of this section effective on the date of enactment of this Act.

Section 6 outlines special rules for magistrates of the Family Court. It requires certified social workers on the Advisory Merit Selection Panel to assist in the hiring of magistrates, establishes special qualifications for magistrates in the Family Court, and provides magistrates for the Family Court and Domestic Violence Unit with additional powers and authorities. Magistrates will have expertise in family law, and will be able to address the problems facing the children and families of the District of Columbia. It requires the chief judge, in consultation with the presiding judge of the Family Court, to ensure that magistrates receive training. The Committee strongly encourages that magistrates serving in the Family Court or Domestic Violence Unit serve their entire terms in the Family Court or Domestic Violence Unit to maximize case continuity and advance the guiding principle of one family, one judge.

Subsection 6(b) makes conforming amendments to the District of Columbia Code.

Subsection 6(c) makes a clerical amendment to the table of sections for subchapter II of chapter 17 of title 11 of the District of Columbia Code.

Subsection 6(d) establishes an expedited initial appointments process for appointing the first five magistrates serving in the Family Court within 60 days of enactment. It also sets forth the transition responsibilities of those first five magistrates, which include working with the judges outside the Family Court to whom child abuse and neglect cases are currently assigned to help make case disposition or transfer decisions.

Section 7 is a sense of the Congress that Maryland, Virginia, and the District of Columbia should promptly enter into a border agreement to facilitate the timely and safe placement of children in District of Columbia welfare system in foster and kinship homes and other facilities in Maryland and Virginia.

Section 8 is a sense of the Congress that the chief judge of the Superior Court and the presiding judges of the Family Division take all steps necessary to encourage, support, and improve the use of Court Appointed Special Advocates (CASAs) in family court actions or proceedings. CASAs play a unique and important role in ensuring that children are protected and their needs met.

Section 9 requires the chief judge and the presiding judge of the Family Court, not later than 12 months after enactment of the Act and in consultation with the General Services Administration, to submit to Congress a feasibility study for the construction of appropriate permanent courts and facilities for the Family Court and an analysis of the success of the use of magistrates under the expedited appointment procedures. The feasibility study is intended to be the first step towards establishing a permanent "family-friendly" environment for those served by the Family Court. The Committee

expects that, upon completion, the study will be used to begin the process of actual construction of space pursuant to established federal property and procurement principles.

Section 10 authorizes appropriations of such sums as necessary to the District of Columbia Courts and the District of Columbia to carry out the amendments of the Act.

Section 11 makes the amendments of the Act effective upon the appropriation of funds specifically designated by the Federal law for the purposes of carrying out the Act.

V. Cost Estimate of the Congressional Budget Office

U.S. Congress,
Congressional Budget Office,
Washington, DC, November 27, 2001.

Hon. Joseph L. Lieberman,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1382, the District of Columbia Family Court Act of 2001.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact are Matthew Pickford and Lanette J. Walker (for federal costs), Susan Sieg Tompkins (for the state and local impact), and Paige Piper/Bach (for the private-sector impact).

Sincerely,

Barry B. Anderson
(For Dan L. Crippen, Director).

Enclosure.

S. 1382—District of Columbia Family Court Act of 2001

Summary: S. 1382 would redesignate the Family Division of the Superior Court of the District of Columbia as a distinct entity called the Family Court of the Superior Court. The bill would require that all proceedings under the jurisdiction of the Family Division be heard by that new entity. Under current law, other divisions of the Superior Court regularly handle proceedings of the Family Division when necessary. In addition, the bill would authorize the appropriation of such sums as necessary to the District of Columbia to implement the bill. CBO estimates that implementing the bill would cost $92 million over the 2002–2006 period, assuming appropriation of the necessary amounts. Because the bill would not affect direct spending or governmental receipts, pay-as-you-go procedures would not apply.

S. 1382 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) but CBO estimates that the costs to comply with those requirements would not exceed the threshold established in UMRA ($56 million in 2001, adjusted annually for inflation). Further, S. 1382 would authorize appropriations to carry out the provisions of the bill, so the District of Columbia would face no net costs. The act contains no new private-sector mandates as defined in UMRA.

Major provisions: In addition to designating the Family Division of the Superior Court of the District of Columbia as the Family Court, S. 1382 would:

- Require that representatives of social services and other related services for individuals and families served by the Family Court be available on-site at the location of the Family Court;
- Require "one family, one judge" for cases and proceedings to the greatest extent practicable, feasible, and lawful;
- Designate the jurisdiction of the Family Court to include divorces, child support, custody, adoptions, and various other proceedings;
- Establish certain requirements for judges who would serve on the Family Court;
- Direct the court to establish and operate an electronic tracking system for cases and proceedings in the Family Court and expand the system to cover all divisions of the Superior Court;
- Require that representatives from the departments of the District government related to social and family services be available on-site at the location of the Family Court;
- Authorize the Mayor of the District of Columbia to appoint a liaison between the Family Court and the District government;
- Designate all hearing commissioners of the Superior Court as magistrate judges with the full duties of that position and establish certain requirements for magistrate judges serving the Family Court; and
- Authorize the appropriation of such sums as are necessary to support the additional judges and staff authorized under the bill.

Other provisions would require the court to develop a master plan for the Family Court, and would require several reports from the District of Columbia Courts.

Estimated cost to the Federal Government: As shown in the following table, CBO estimates that implementing S. 1382 would cost $92 million over the 2002–2006 period, subject to appropriation of the necessary amounts. The costs of this legislation fall within budget function 800 (general government).

	By fiscal year, in millions of dollars—				
	2002	2003	2004	2005	2006
Changes in spending subject to appropriation					
Judges and Support Staff:					
Estimated Authorization Level	3	6	6	6	6
Estimated Outlays	3	6	6	6	6
Integrated Justice Information System:					
Estimated Authorization Level	2	3	2	(1)	(1)
Estimated Outlays	2	3	2	(1)	(1)
Capital Improvements and Rental Costs:					
Estimated Authorization Level	12	21	8	6	6
Estimated Outlays	3	11	16	13	7
Computer Integration Plan:					
Estimated Authorization Level	3	(1)	(1)	(1)	(1)
Estimated Outlays	3	(1)	(1)	(1)	(1)
D.C. Services Representatives and Liaison:					
Estimated Authorization Level	1	1	1	1	1
Estimated Outlays	1	1	1	1	1
Total Discretionary Changes:					
Estimated Authorization Level	21	31	17	13	13

	By fiscal year, in millions of dollars—				
	2002	2003	2004	2005	2006
Estimated Outlays	12	21	25	20	14

[1] Less than $500,000.

Basis of estimate: For this estimate, CBO assumes that S. 1382 will be enacted by the end of 2001 and that the amounts necessary to implement the bill will be provided each year. All spending would be subject to future appropriation actions.

Section 3 would require that most proceedings under the jurisdiction of the Family Court be held in that court and that all family law cases pending in other divisions of the Superior Court (except for certain specific circumstances) be transferred into the Family Court. The majority of family law cases are neglect and abuse cases, and about 4,500 such cases are currently pending. Of those cases, 3,600 are pending before a judge outside the Family Division of the Superior Court. In addition, about 1,500 new cases come before the court each year. Most of the estimated cost to implement this legislation would be needed to fund the additional workload that would be imposed on the Family Court and the capital costs of expanding work space to accommodate additional judges and support staff. CBO estimates that implementing S. 1382 would cost about $92 million over the 2002–2006 period. The components of the estimate are described below.

Additional Superior Court judges and support staff

S. 1382 would set requirements for judges that serve the Family Court, including a minimum length of service. Under the bill, judges currently serving on the court may choose to transfer to the Family Court from all divisions of the Superior Court. Assuming that all 12 of the current Family Division judges choose to transfer, CBO expects that three additional judges would be necessary to implement the bill. CBO estimates that the salaries and benefits of the judges and judicial support staff would cost about $1 million each year over the five-year period.

The bill would designate all Superior Court hearing commissioners as magistrate judges and would authorize the court to appoint additional magistrate judges if needed. Based on information from the District of Columbia Courts, CBO expects that nine additional magistrates would be required to implement the bill. Based on the historical ratio of magistrate judges to support staff, CBO estimates that the additional magistrate judges and staff would cost about $3.4 million each year over the five-year period.

Section 4 would require cases and proceedings in the Family Court to be resolved through alternative dispute resolution procedures to the greatest extent practical. Based on information from the court, CBO expects that the court would request that about 1,500 new cases each year enter the alternative dispute resolution process. Based on the operation of the current alternative dispute resolution program, CBO estimates that implementing this provision would cost about $500,000 each year over the five-year period for stipends and training for mediators and additional court support staff.

Section 4 also would require the Family Court to develop an ongoing program to train judges and other staff in matters related to

family law, such as child development, family dynamics, and risk factors for child abuse. Based on information from the District of Columbia Courts, CBO estimates that implementing this provision would cost about $50,000 in 2002 and $100,000 each year over the 2003–2006 period.

In addition, CBO estimates that security and office supplies for the additional judges and staff would cost about $500,000 each year over the five-year period.

Integrated Justice Information System

Section 4 would require the District of Columbia Courts to establish and operate an electronic tracking and management system for cases and proceedings in the Family Court and to expand this system to all divisions of the Superior Court. Based on information from the court, CBO estimates that the complete system would cost $7 million. The court has received a grant over $1 million for the system; therefore, CBO estimates that an additional $6 million would be needed to complete the system.

In addition, CBO estimates that additional support staff would be necessary to administer the Integrated Justice Information System and analyze the data for the various reports required under the bill. CBO estimates that the new staff would cost about $300,000 each year over the 2002–2006 period, assuming the appropriation of the necessary amounts.

Capital improvements

Based on information from the District of Columbia Courts, CBO expects that implementing the bill would require the court to construct new courtrooms and upgrade electrical, plumbing, and other systems within existing court buildings. In addition, the District Courts expect to rent office space in commercial buildings to accommodate the staff increases authorized by the bill.

Based on information from the District of Columbia Courts, CBO estimates that implementing this provision would cost about $25 million over the 2002–2006 period for construction and renovation, and about $6 million per year for the rental of office space. We estimate that capital improvements and rental payments authorized by S. 1382 would cost about $2 million in 2002 and $52 million over the 2002–2006 period, subject to the availability of appropriated funds.

Computer integration plan

S. 1382 would require the District government to submit to the Congress a plan for integrating certain computer systems of the District government not more than six months after the date of enactment. Under the planned computer system, the Family Court and the relevant social services agencies in the District would be able to access and share information related to the individuals and families they serve. Based on information from the District government, CBO estimates that preparing this plan would cost $3 million in 2002.

D.C. services representatives and liaison

S. 1382 would require that representatives from the departments of the District government related to social and family services be

available on-site at the location of the court. Based on information from the District government, CBO expects that 10 representatives would be required to implement this provision of the bill. The bill also would require the Mayor of the District of Columbia to appoint a liaison between the Family Court and the District government. CBO estimates that the additional personnel would cost about $1 million each year over the five-year period, assuming the appropriation of the necessary amounts.

Pay-as-you-go considerations: None.

Estimated impact on State, local, and tribal governments: S. 1382 would place new requirements on the Superior Court and the Mayor of the District of Columbia as part of redesignating the court's Family Division as Family Court. Among these requirements, the Superior Court would be required to develop a transition plan that would address appointment and qualification of judges, case flow management, and disposition of actions pending before the Family Division. The court also would be required to prepare status reports, provide certain training to judges serving on the Family Court, and update its data management systems. The Mayor would be required to make representatives of certain city agencies available to individuals served by the court, and to develop a plan for integrating certain city data systems with data systems of the court.

Those requirements would be mandates under UMRA but CBO estimates that the cost to comply would not exceed the threshold established in the act ($56 million in 2001, adjusted annually for inflation). The bill would authorize appropriations to pay for the mandates, so the District of Columbia would face no net costs as a result of the bill if those appropriations are provided.

Estimated impact on the private sector: This bill contains no new private-sector mandates as defined in UMRA.

Previous CBO estimate: On September 12, 2001, CBO transmitted a cost estimate for H.R. 2657, the District of Columbia Family Court Act of 2001, as approved by the Subcommittee on the District of Columbia, House Committee on Government Reform on August 13, 2001. The provisions of S. 1382 would require a lesser workload for the Family Court, which would lower staffing costs. In addition, because we are now assuming a later enactment date, costs over the 2002–2006 period would be $7 million lower.

On November 27, 2001, CBO prepared a cost estimate for H.R. 2657, as ordered reported by the Senate Committee on Governmental Affairs on November 14, 2001. S. 1382 and H.R. 2657 are identical, as are the estimated costs.

Estimate prepared by: Federal Costs: Matthew Pickford and Lanette J. Walker; Impact on State, Local, and Tribal Governments: Susan Sieg Tompkins; Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

VI. Evaluation of Regulatory Impact

Paragraph 11(b)(1) of rule XXVI of the Standing Rules of the Senate requires that each report accompanying a bill evaluate the "regulatory impact which would be incurred in carrying out this bill." According to the Congressional Budget Office (CBO), S. 1382

contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). The Mayor of the District of Columbia would be required to make representatives of certain city agencies available to individuals served by the court, and to develop a plan for integrating certain city data systems with data systems of the court. CBO estimates that the costs to comply with those requirements would not exceed the threshold established in UMRA. S. 1382 has no additional regulatory impact.

VII. CHANGES TO EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic and existing law, in which no change is proposed, is shown in roman):

DISTRICT OF COLUMBIA CODE

TITLE 11, ORGANIZATION AND JURISDICTION OF THE COURTS

Chapter 7. DISTRICT OF COLUMBIA COURT OF APPEALS

§ 11–721. Orders and judgments of the Superior Court

(a) The District of Columbia Court of Appeals has jurisdiction of appeals from—

(1) all final orders and judgments of the Superior Court of the District of Columbia;

* * * * * * *

(g) Any appeal from an order of the Family Court of the District of Columbia terminating parental rights or granting or denying a petition to adopt shall receive expedited review by the District of Columbia Court of Appeals.

* * * * * * *

Chapter 9. SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

[§ 11–902. Organization of the court

[The Superior Court shall consist of the following divisions: Civil Division, Criminal Division, Family Division, Probate Division, and Tax Division. The divisions of the Superior Court may be divided into such branches as the Superior Court may by rule prescribe.]

§ 11–902. Organization of the court

(a) IN GENERAL.—The Superior Court shall consist of the following:

(1) The Civil Division.
(2) The Criminal Division.
(3) The Family Court.
(4) The Probate Division.
(5) The Tax Division.

(b) BRANCHES.—The divisions of the Superior Court may be divided into such branches as the Superior Court may by rule prescribe.

(c) DESIGNATION OF PRESIDING JUDGE OF FAMILY COURT.—The chief judge of the Superior Court shall designate one of the judges assigned to the Family Court of the Superior Court to serve as the presiding judge of the Family Court of the Superior Court.

(d) JURISDICTION DESCRIBED.—The Family Court shall have original jurisdiction over the actions, applications, determinations, adjudications, and proceedings described in section 11–1101. Actions, applications, determinations, adjudications, and proceedings being assigned to cross-jurisdictional units established by the Superior Court, including the Domestic Violence Unit, on the date of enactment of this section may continue to be so assigned after the date of enactment of this section.

* * * * * * *

§ 11–906. Administration by chief judge; discharge of duties

(a) The chief judge shall administer and superintend the business of the Superior Court, as provided in chapter 17 of this title. The chief judge shall attend to the discharge of the duties pertaining to the office of chief judge and perform such additional judicial work as the chief judge is able to perform.

(b) The chief judge shall, insofar as is consistent with this title, arrange and divide the business of the Superior Court and fix the time of sessions of *the Family Court and* the various divisions and branches of the Superior Court.

* * * * * * *

SUBCHAPTER I. CONTINUATION AND ORGANIZATION

Sec.
11–901. Continuation of courts; court record; seal.
11–902. Organization of the court.
* * * * * * *
11–908. Designation and assignment of judges
11–908A. Special Rules regarding assignment and service of judges of Family Court.
* * * * * * *

§ 11–908. Designation and assignment of judges

(a) **[**The chief judge**]** *Subject to section 11–908A, the chief judge* may designate the number of judges to serve in any division and branch of the Superior Court and may assign and reassign any judge to sit in any division or branch. When making assignments to the Family Division and Tax Division, the chief judge shall consider the qualifications and interest of the judges. Each associate judge shall attend and serve in the division and branch to which assigned.

* * * * * * *

§ 11–908A. Special rules regarding assignment and service of judges of Family Court

(a) NUMBER OF JUDGES—

(1) IN GENERAL.—The number of judges serving on the Family Court of the Superior Court shall be not more than 15.

(2) EXCEPTION.—If the chief judge determines that, in order to carry out the intent and purposes of this Act, an emergency exists such that the number of judges needed on the Family Court of the Superior Court at any time is more than 15, the chief judge may temporarily reassign qualified judges from other divisions of the Superior Court or qualified senior judges to serve on the Family Court. Such reassigned judges shall not be subject to the term of service requirements of this Act.

(3) COMPOSITION.—The total number of judges on the Superior Court may exceed the limit on such judges specified in section 11–903 to the extent necessary to maintain the requirements of this subsection if—

(A) the number of judges serving on the Family Court is less than 15; and

(B) the chief judge of the Superior Court—

(i) is unable to secure a volunteer judge who is sitting on the Superior Court outside of the Family Court for reassignment to the Family Court;

(ii) obtains approval of the Joint Committee on Judicial Administration; and

(iii) reports to Congress regarding the circumstances that gave rise to the necessity to exceed the cap.

(b) QUALIFICATIONS.—The chief judge may not assign an individual to serve on the Family Court of the Superior Court or handle a Family Court case unless—

(1) the individual has training or expertise in family law;

(2) the individual certifies to the chief judge that the individual intends to serve the full term of service, except that this paragraph shall not apply with respect to individuals serving as senior judges under section 11–1504, individuals serving as temporary judges under section 11–908, and any other judge serving in another division of the Superior Court;

(3) the individual certifies to the chief judge that the individual will participate in the ongoing training programs carried out for judges of the Family Court under section 11–1104(c); and

(4) the individual meets the requirements of section 11–1501(b).

(c) TERM OF SERVICE.—

(1) IN GENERAL.—

(A) SITTING JUDGES.—An individual assigned to serve as a judge of the Family Court of the Superior Court who is serving as a judge in the Superior Court on the date of enactment of the District of Columbia Family Court Act of 2001 shall serve in the Family Court for a term of not fewer than 3 years as determined by the chief judge of the Superior Court (including any period of service on the Family Division of the Superior Court immediately preceding the date of enactment of such Act).

(B) NEW JUDGES.—An individual assigned to serve as a judge of the Family Court of the Superior Court who is not serving as a judge in the Superior Court on the date of enactment of the District of Columbia Family Court Act of 2001 shall serve for a term of 5 years.

(2) ASSIGNMENT FOR ADDITIONAL SERVICE.—After the term of service of a judge of the Family Court (as described in paragraph (1)) expires, at the judge's request and with the approval of the chief judge, the judge may be assigned for additional service on the Family Court for a period of such duration (consistent with section 431(c) of the District of Columbia Home Rule Act) as the chief judge may provide.

(3) PERMITTING SERVICE ON FAMILY COURT FOR ENTIRE TERM.—At the request of the judge and with the approval of the chief judge, a judge may serve as a judge of the Family Court for the judge's entire term of service as a judge of the Superior Court under section 431(c) of the District of Columbia Home Rule Act.

(d) REASSIGNMENT TO OTHER DIVISIONS.—The chief judge may reassign a judge of the Family Court to any division of the Superior Court if the chief judge determines that in the interest of justice the judge is unable to continue serving in the Family Court.

Chapter 11. FAMILY DIVISION OF THE SUPERIOR COURT

Chapter 11. [Family Division] *Family Court* of the Superior Court.

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Chapter 11. [Family Division] *Family Court* of the District of Columbia

[§ 11–1101. Exclusive Jurisdiction

[The Family Division of the Superior Court shall be assigned, in accordance with chapter 9, exclusive jurisdiction of—

[(1) actions for divorce from the bond of marriage and legal separation from bed and board, including proceedings incidental thereto for alimony, pendente lite and permanent, and for support and custody of minor children;

[(2) applications for revocation of divorce from bed and board;

[(3) actions to enforce support of any person as required by law;

[(4) actions seeking custody of minor children, including petitions for writs of habeas corpus;

[(5) actions to declare marriages void;

[(6) actions to declare marriages valid;

[(7) actions for annulments of marriage;

[(8) determinations and adjudications of property rights, both real and personal, in any action referred to in this section,

irrespective of any jurisdictional limitation imposed on the Superior Court;

[(9) proceedings in adoption;

[(10) proceedings under the Act of July 10, 1957 (D.C. Code, secs. 30–301 to 30–324);

[(11) proceedings to determine paternity of any child born out of wedlock;

[(12) civil proceedings for protection involving intrafamily offenses, instituted pursuant to chapter 10 of title 16;

[(13) proceedings in which a child, as defined in section 16–2301, is alleged to be delinquent, neglected, or in need of supervision;

[(14) proceedings under chapter 5 of title 21 relating to the commitment of the mentally ill;

[(15) proceedings under chapter 11 of title 21 relating to the commitment of the substantially retarded; and

[(16) proceedings under Interstate Compact on Juveniles (described in title IV of the District of Columbia Court Reform and Criminal Procedure Act of 1970).]

§ 11–1101. Jurisdiction of the Family Court

(a) IN GENERAL.—The Family Court of the District of Columbia shall be assigned and have original jurisdiction over—

(1) actions for divorce from the bond of marriage and legal separation from bed and board, including proceedings incidental thereto for alimony, pendente lite and permanent, and for support and custody of minor children;

(2) applications for revocation of divorce from bed and board;

(3) actions to enforce support of any person as required by law;

(4) actions seeking custody of minor children, including petitions for writs of habeas corpus;

(5) actions to declare marriages void;

(6) actions to declare marriages valid;

(7) actions for annulments of marriage;

(8) determinations and adjudications of property rights, both real and personal, in any action referred to in this section, irrespective of any jurisdictional limitation imposed on the Superior Court;

(9) proceedings in adoption;

(10) proceedings under the Act of July 10, 1957 (D.C. Code, secs. 30–301 to 30–324);

(11) proceedings to determine paternity of any child born out of wedlock;

(12) civil proceedings for protection involving intrafamily offenses, instituted pursuant to chapter 10 of title 16;

(13) proceedings in which a child, as defined in section 16–2301, is alleged to be delinquent, neglected, or in need of supervision;

(14) proceedings under chapter 5 of title 21 relating to the commitment of the mentally ill;

(15) proceedings under chapter 11 of title 21 relating to the commitment of the substantially retarded; and

(16) proceedings under Interstate Compact on Juveniles (described in title IV of the District of Columbia Court Reform and Criminal Procedure Act of 1970).

(b) DEFINITION.—

(1) IN GENERAL.—In this chapter, the term "action or proceeding" with respect to the Family Court refers to cause of action described in paragraphs (1) through (16) of subsection (a).

(2) EXCEPTION.—An action or proceeding may be assigned to or retained by cross-jurisdictional units established by the Superior Court, including the Domestic Violence Unit.

§ 11–1102. Use of alternative dispute resolution

To the greatest extent practicable and safe, cases and proceedings in the Family Court of the Superior Court shall be resolved through alternative dispute resolution procedures, in accordance with such rules as the Superior Court may promulgate.

§ 11–1103. Standards of practice for appointed counsel

The Superior Court shall establish standards of practice for attorneys appointed as counsel in the Family Court of the Superior Court.

§ 11–1104. Administration

(a) "ONE FAMILY, ONE JUDGE" REQUIREMENT FOR CASES AND PROCEEDINGS.—To the greatest extent practicable, feasible, and lawful, if an individual who is a party to an action or proceeding assigned to the Family Court has an immediate family or household member who is a party to another action or proceeding assigned to the Family Court, the individual's action or proceeding shall be assigned to the same judge or magistrate judge to whom the immediate family member's action or proceeding is assigned.

(b) RETENTION OF JURISDICTION OVER CASES.—

(1) IN GENERAL.—In addition to the requirement of subsection (a), any action or proceeding assigned to the Family Court of the Superior Court shall remain under the jurisdiction of the Family Court until the action or proceeding is finally disposed, except as provided in paragraph (2)(C).

(2) ONE FAMILY, ONE JUDGE.—

(A) FOR THE DURATION.—An action or proceeding assigned pursuant to this subsection shall remain with the judge or magistrate judge to whom the action or proceeding is assigned for the duration of the action or proceeding to the greatest extent practicable, feasible, and lawful.

(B) ALL CASES INVOLVING AN INDIVIDUAL.—If an individual who is a party to an action or proceeding assigned to the Family Court becomes a party to another action or proceeding assigned to the Family Court, the individual's subsequent action or proceeding shall be assigned to the same judge or magistrate judge to whom the individual's initial action or proceeding is assigned to the greatest extent practicable and feasible.

(C) FAMILY COURT CASE RETENTION.—If the full term of a Family Court judge to whom the action or proceeding is assigned is completed prior to the final disposition of the action or proceeding, the presiding judge of the Family

Court shall ensure that the matter or proceeding is reassigned to a judge serving on the Family Court.

(D) EXCEPTION.—A judge whose full term on the Family Court is completed but who remains in Superior Court may retain the case or proceeding for not more than 18 months after ceasing to serve if—

(i) the case remains at all times in full compliance with section 103(a)(3) of Public Law 105–89 (42 U.S.C. 675(E)), if applicable, and the case has been assigned continuously to the judge for 18 months or more and the judge has a special knowledge of the child's needs, such that reassignment would be harmful to the child; and

(ii) the chief judge, in consultation with the presiding judge of the Family Court determines that such retention is in the best interests of the parties.

(3) STANDARDS OF JUDICIAL ETHICS.—The actions of a judge or magistrate judge in retaining an action or proceeding under this paragraph shall be subject to applicable standards of judicial ethics.

(c) TRAINING PROGRAM.—

(1) IN GENERAL.—The chief judge, in consultation with the presiding judge of the Family Court, shall carry out an ongoing program to provide training in family law and related matters for judges of the Family Court and other judges of the Superior Court who are assigned Family Court cases, including magistrate judges, attorneys who practice in the Family Court, and appropriate nonjudicial personnel, and shall include in the program information and instruction regarding the following:

(A) Child development.

(B) Family dynamics, including domestic violence.

(C) Relevant Federal and District of Columbia laws.

(D) Permanency planning principles and practices.

(E) Recognizing the risk factors for child abuse.

(F) Any other matters the presiding judge considers appropriate.

(2) USE OF CROSS-TRAINING.—The program carried out under this section shall use the resources of lawyers and legal professionals, social workers, and experts in the field of child development and other related fields.

(d) ACCESSIBILITY OF MATERIALS, SERVICES, AND PROCEEDINGS; PROMOTION OF "FAMILY-FRIENDLY" ENVIRONMENT.—

(1) IN GENERAL.—To the greatest extent practicable, the chief judge and the presiding judge of the Family Court shall ensure that the materials and services provided by the Family Court are understandable and accessible to the individuals and families served by the Family Court, and that the Family Court carries out its duties in a manner which reflects the special needs of families with children.

(2) LOCATION OF PROCEEDINGS.—To the maximum extent feasible, safe, and practicable, cases and proceedings in the Family Court shall be conducted at locations readily accessible to the parties involved.

(e) INTEGRATED COMPUTERIZED CASE TRACKING AND MANAGEMENT SYSTEM.—The Executive Officer of the District of Columbia

courts under section 11–1703 shall work with the chief judge of the Superior Court—

(1) to ensure that all records and materials of cases and proceedings in the Family Court are stored and maintained in electronic format accessible by computers for the use of judges, magistrate judges, and nonjudicial personnel of the Family Court, and for the use of other appropriate offices of the District government in accordance with the plan for integrating computer systems prepared by the Mayor of the District of Columbia under section 4(b) of the District of Columbia Family Court Act of 2001;

(2) to establish and operate an electronic tracking and management system for cases and proceedings in the Family Court for the use of judges and nonjudicial personnel of the Family Court, using the records and materials stored and maintained pursuant to paragraph (1); and

(3) to expand such system to cover all divisions of the Superior Court as soon as practicable.

§ 11–1105. Social services and other related services

(a) ONSITE COORDINATION OF SERVICES AND INFORMATION.—

(1) IN GENERAL.—The Mayor of the District of Columbia, in consultation with the chief judge of the Superior Court, shall ensure that representatives of the appropriate offices of the District government which provide social services and other related services to individuals and families served by the Family Court (including the District of Columbia Public Schools, the District of Columbia Housing Authority, the Child and Family Services Agency, the Office of the Corporation Counsel, the Metropolitan Police Department, the Department of Health, and other offices determined by the Mayor) are available on-site at the Family Court to coordinate the provision of such services and information regarding such services to such individuals and families.

(2) DUTIES OF HEADS OF OFFICES.—The head of each office described in paragraph (1), including the Superintendent of the District of Columbia Public Schools and the Director of the District of Columbia Housing Authority, shall provide the Mayor with such information, assistance, and services as the Mayor may require to carry out such paragraph.

(b) APPOINTMENT OF SOCIAL SERVICES LIAISON WITH FAMILY COURT.—The Mayor of the District of Columbia shall appoint an individual to serve as a liaison between the Family Court and the District government for purposes of subsection (a) and for coordinating the delivery of services provided by the District government with the activities of the Family Court and for providing information to the judges, magistrate judges, and nonjudicial personnel of the Family Court regarding the services available from the District government to the individuals and families served by the Family Court. The Mayor shall provide on an ongoing basis information to the chief judge of the Superior Court and the presiding judge of the Family Court regarding the services of the District government which are available for the individuals and families served by the Family Court.

§ 11–1106. Reports to Congress

Not later than 90 days after the end of each calendar year, the chief judge of the Superior Court shall submit a report to Congress on the activities of the Family Court during the year, and shall include in the report the following:

(1) The chief judge's assessment of the productivity and success of the use of alternative dispute resolution pursuant to section 11–1102.

(2) Goals and timetables as required by the Adoption and Safe Families Act of 1997 to improve the Family Court's performance in the following year.

(3) Information on the extent to which the Family Court met deadlines and standards applicable under Federal and District of Columbia law to the review and disposition of actions and proceedings under the Family Court's jurisdiction during the year.

(4) Information on the progress made in establishing locations and appropriate space for the Family Court that are consistent with the mission of the Family Court until such time as the locations and space are established.

(5) Information on any factors which are not under the control of the Family Court which interfere with or prevent the Family Court from carrying out its responsibilities in the most effective manner possible.

(6) Information on—

(A) the number of judges serving on the Family Court as of the end of the year;

(B) how long each such judge has served on the Family Court;

(C) the number of cases retained outside the Family Court;

(D) the number of reassignments to and from the Family Court; and

(E) the ability to recruit qualified sitting judges to serve on the Family Court.

(7) Based on outcome measures derived through the use of the information stored in electronic format under section 11–1104(d), an analysis of the Family Court's efficiency and effectiveness in managing its case load during the year, including an analysis of the time required to dispose of actions and proceedings among the various categories of the Family Court's jurisdiction, as prescribed by applicable law and best practices, including (but not limited to) best practices developed by the American Bar Association and the National Council of Juvenile and Family Court Judges.

(8) If the Family Court failed to meet the deadlines, standards, and outcome measures described in the previous paragraphs, a proposed remedial action plan to address the failure.

Chapter 17. ADMINISTRATION OF THE DISTRICT OF COLUMBIA COURTS

SUBCHAPTER I. COURT ADMINISTRATION.

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SUBCHAPTER II. COURT PERSONNEL.

§ 11–1732. [Hearing commissioners] *Magistrate Judges*

(a) With the approval of a majority of the judges of the Superior Court of the District of Columbia in active service and subject to standards and procedures established by the rules of the Superior Court, the chief judge of the Superior Court may appoint [hearing commissioners] *magistrate judges*, who shall serve in the Superior Court and perform the duties enumerated in subsection (j) of this section *(or, in the case of magistrate judges for the Family Court or the Domestic Violence Unit of the Superior Court, the duties enumerated in section 11–1732A(d))* and such other functions incidental to these duties as are consistent with the rules of the Superior Court and the Constitution and laws of the United States and of the District of Columbia.

(b) [Hearing commissioners] *magistrate judges* shall be selected pursuant to standards and procedures adopted by the Board of Judges. Such procedures shall contain provisions for public notice of all vacancies in [hearing commissioner] *magistrate judge* positions and for the establishment by the Court of an advisory merit selection panel, composed of lawyer and nonlawyer residents of the District of Columbia who are not employees of the District of Columbia Courts, to assist the Board of Judges in identifying and recommending persons who are best qualified to fill such positions.

(c) [No individual] *Except as provided in section 11–1732A(b), no individual* shall be appointed as a [hearing commissioner] *magistrate judges* unless that individual—

(1) is a citizen of the United States;

(2) is an active member of the unified District of Columbia Bar and has been engaged in the active practice of law in the District for the five years immediately preceding the appointment or for such five years has been on the faculty of a law school in the District, or has been employed as a lawyer by the United States or District government; and

(3) is a bona fide resident of the District of Columbia and has maintained an actual place of abode in the District for at least ninety days immediately prior to appointment, and retains such residency during service as a [hearing commissioner] *magistrate judge*, except that [hearing commissioners] *magistrate judges* appointed prior to the effective date of this section shall not be required to be residents of the District to be eligible to be appointed to one of the initial terms under this section or to be reappointed.

(d) [Hearing commissioners] *magistrate judges* shall be appointed for terms of four years and may be reappointed for terms of four years. Those individuals serving as [hearing commissioners] *magistrate judges* on the effective date of this Act shall be automatically appointed for a four year term.

(e) Upon the expiration of a [hearing commissioner's] *magistrate judge's* term, the [hearing commissioner] *magistrate judge* may continue to perform the duties of office until a successor is appointed, or for 90 days after the date of the expiration of the [hearing commissioner's term] *magistrate judges*', whichever is earlier.

(f) No individual may serve as a [hearing commissioner] *magistrate judge* under this section after having attained the age of seventy-four.

(g) The Board of Judges may suspend, involuntarily retire, or remove a [hearing commissioner] *magistrate judge*, during the term for which the [hearing commissioner] *magistrate judge* is appointed, only for incompetence, misconduct, neglect of duty, or physical or mental disability. Suspension, involuntary retirement, or removal requires the concurrence of a majority of the judges in active service. Before any order of suspension, involuntary retirement, or removal shall be entered, a full specification of the charges and the opportunity to be heard shall be furnished to the [hearing commissioner] *magistrate judge* pursuant to procedures established by rules of the Superior Court.

(h) If the Board of Judges determines that a [hearing commissioner] *magistrate judges* position is not needed, the Board of Judges may terminate the position.

(i) (1) [Hearing commissioners] *Magistrate judges* may not engage in the practice of law, or in any other business, occupation, or employment inconsistent with the expeditious, proper, and impartial performance of their duties as officers of the court.

(2) [Hearing commissioners] *Magistrate judges* shall abide by the Canons of Judicial Ethics.

(j) A [hearing commissioner] *Magistrate judge*, when specifically designated by the chief judge of the Superior Court, and subject to the rules of the Superior Court and the right of review under subsection (k), may perform the following functions:

(1) Administer oaths and affirmations and take acknowledgements;

(2) Determine conditions of release pursuant to the provisions of title 23 of the District of Columbia Code (relating to criminal procedure);

(3) Conduct preliminary examinations and initial probation revocation hearings in all criminal cases to determine if there is probable cause to believe that an offense has been committed and that the accused committed it;

(4) (A) In any case brought under § 11–1101(1), (3), (10), or (11) of the District of Columbia Code involving the establishment or enforcement of child support, or in any case seeking to modify an existing child support order, where a [hearing commissioner] *magistrate judge* in the Family Division of the Superior Court finds that there is an existing duty of support, the [hearing commissioner] *magistrate judge* shall conduct a hearing on support, make findings, and enter judgment as provided by law, and in accordance with guidelines established by rule of the Superior Court, which judgment shall constitute a final order of the Superior Court.

(B) If in a case under paragraphs [paragraph] (A), the [hearing commissioner] *magistrate judge* finds that a duty of support exists and makes a finding that the case involves com-

plex issues requiring judicial resolution, the [hearing commissioner] *magistrate judge* shall establish a temporary support obligation and refer unresolved issues to a judge of the Superior Court.

(C) In cases under subparagraphs (A) and (B) in which the [hearing commissioner] *magistrate judge* finds that there is a duty of support and the individual owing that duty has been served or given notice of the proceeding under any applicable statute or court rule, if that individual fails to appear or otherwise respond, the [hearing commissioner] *magistrate judge* shall enter a default order, which shall constitute a final order of the Superior Court;

(5) Subject to the rules of the Superior Court and with the consent of the parties involved, make findings and enter final orders or judgments in other uncontested or contested proceedings, in the Civil, Criminal, and Family Divisions of the Superior Court, excluding jury trials and trials of felony cases.

(k) With respect to proceedings and hearings under paragraphs (2), (3), (4), and (5) of [subsection (j),] *subsection (j) (or proceedings and hearings under section 11–1732A(d), in the case of magistrate judges for the Family Court or the Domestic Violence Unit of the Superior Court)*, a review of the [hearing commissioner's] *magistrate judge's* order or judgment, in whole or in part, may be made by a judge of the appropriate division (*or, in the case of an order or judgment of a magistrate judge of the Family Court or the Domestic Violence Unit of the Superior Court, by a judge of the Family Court or the Domestic Violence Unit*) sua sponte and must be made upon a motion of one of the parties made pursuant to procedures established by rules of the Superior Court. The reviewing judge shall conduct such proceedings as required by the rules of the Superior Court. An appeal to the District of Columbia Court of Appeals may be made only after a judge of the Superior Court has reviewed the order or judgment.

(l) The Superior Court shall ensure that all [hearing commissioners] *magistrate judges* receive training to enable them to fulfill their responsibilities (*subject to the requirements of section 11–1732A(f) in the case of magistrate judges of the Family Court of the Superior Court or the Domestic Violence Unit*).

(m) (1) The chief judge of the Superior Court, in consultation with the District of Columbia Bar, the City Council of the District of Columbia, and other interested parties, shall within one year of the effective date of this section, make a careful study of conditions in the Superior Court to determine—

(A) the number of appointments required to provide for the effective administration of justice;

(B) the divisions in which hearing commissioners shall serve;

(C) the appropriate functions of hearing commissioners; and

(D) the compensation of, and other personnel matters pertaining to, hearing commissioners.

Upon completion of the study, the chief judge shall report the findings of such study to the appropriate committees of the Congress.

(2) After the study required by paragraph (1), the chief judge shall, from time to time, make such studies as the Board of Judges shall deem expedient, giving consideration to suggestions of the District of Columbia Bar and other interested parties.

(n) With the concurrence of the District of Columbia Court of Appeals, the Board of Judges of the Superior Court may promulgate rules, not inconsistent with the terms of this section, which are necessary for the fair and effective utilization of [hearing commissioners] *magistrate judges* in the Superior Court.

(o) For purposes of this section, the term "Board of Judges" means the judges of the Superior Court of the District of Columbia. Any action of the Board of Judges shall require a majority vote of the sitting judges.

§ 11–1732A. Special rules for magistrate judges of the Family Court of the Superior Court and the Domestic Violence Unit

(a) USE OF SOCIAL WORKERS IN ADVISORY MERIT SELECTION PANEL.—The advisory selection merit panel used in the selection of magistrate judges for the Family Court of the Superior Court under section 11–1732(b) shall include certified social workers specializing in child welfare matters who are residents of the District and who are not employees of the District of Columbia Courts.

(b) SPECIAL QUALIFICATIONS.—Notwithstanding section 11–1732(c), no individual shall be appointed as a magistrate judge for the Family Court of the Superior Court or assigned to handle Family Court cases unless that individual—

(1) is a citizen of the United States;

(2) is an active member of the unified District of Columbia Bar;

(3) for the 5 years immediately preceding the appointment has been engaged in the active practice of law in the District, has been on the faculty of a law school in the District, or has been employed as a lawyer by the United States or District government, or any combination thereof;

(4) has not fewer than 3 years of training or experience in the practice of family law as a lawyer or judicial officer; and

(5)(A) is a bona fide resident of the District of Columbia and has maintained an actual place of abode in the District for at least 90 days immediately prior to appointment, and retains such residency during service as a magistrate judge; or

(B) is a bona fide resident of the areas consisting of Montgomery and Prince George's Counties in Maryland, Arlington and Fairfax Counties, and the City of Alexandria in Virginia, has maintained an actual place of abode in such area, areas, or the District of Columbia for at least 5 years prior to appointment, and certifies that the individual will become a bona fide resident of the District of Columbia not later than 90 days after appointment.

(c) SERVICE OF CURRENT HEARING COMMISSIONERS.—Those individuals serving as hearing commissioners under section 11–1732 on the effective date of this section who meet the qualifications described in subsection (b)(4) may request to be appointed as magistrate judges for the Family Court of the Superior Court under such section.

(d) FUNCTIONS OF FAMILY COURT AND DOMESTIC VIOLENCE UNIT MAGISTRATES.—A magistrate judge, when specifically designated by the chief judge in consultation with the presiding judge to serve in the Family Court or in the Domestic Violence Unit and subject to

the rules of the Superior Court and the right of review under section 11–1732(k), may perform the following functions:

(1) Administer oaths and affirmations and take acknowledgements.

(2) Subject to the rules of the Superior Court and applicable Federal and District of Columbia law, conduct hearings, make findings and enter interim and final orders or judgments in uncontested or contested proceedings within the jurisdiction of the Family Court and the Domestic Violence Unit of the Superior Court (as described in section 11–1101), excluding jury trials and trials of felony cases, as assigned by the presiding judge of the Family Court.

(3) Subject to the rules of the Superior Court, enter an order punishing an individual for contempt, except that no individual may be detained pursuant to the authority of this paragraph for longer than 180 days.

(e) LOCATION OF PROCEEDINGS.—To the maximum extent feasible, safe, and practicable, magistrate judges of the Family Court of the Superior Court shall conduct proceedings at locations readily accessible to the parties involved.

(f) TRAINING.—The chief judge, in consultation with the presiding judge of the Family Court of the Superior Court, shall ensure that all magistrate judges of the Family Court receive training to enable them to fulfill their responsibilities, including specialized training in family law and related matters.

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TITLE 16, PARTICULAR ACTIONS, PROCEEDINGS AND MATTERS

Chapter 9. DIVORCE, ANNULMENT, SEPARATION, SUPPORT, ETC.

§ 16–916.1. Child Support Guidelines

(a) In any case brought under paragraph (1), (3), (10), or (11) of section 11–1101 that involves the establishment or enforcement of child support, or in any case that seeks to modify an existing child support order, if the judicial officer finds that there is an existing duty of child support, the judicial officer shall conduct a hearing on child support, make a finding, and enter a judgment in accordance with the child support guideline ("guideline") established in this section.

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(o) A child support order issued under this section or section 5 of the District of Columbia Child Support Enforcement Amendment Act of 1985, effective February 24, 1987 (D.C. Law 6–166; D.C. Code, 30–504), shall be subject to modification by application of the guideline subject to the following conditions or limitations:

(1) A party to a child support proceeding shall exchange relevant information on finances or dependents every 3 years and shall be encouraged to update a child support order voluntarily using the updated information and the guideline. Relevant in-

formation is any information that is used to compute child support pursuant to the guideline.

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(6) If a petition to modify a child support order pursuant to this section is accompanied by an affidavit that sets forth sufficient facts and guideline calculations, and is accompanied by proof of service upon the respondent, the [Family Division] *Family Court of the Superior Court* may enter an order to modify the child support order in accordance with the guideline unless a party requests a hearing within 30 days of service of the petition for modification. No order shall be modified without a hearing if a hearing is timely requested.

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§ 16–924. Expedited judicial hearing

(a) In any case brought under D.C. Code, section 11–1101(1), (3), (10), or (11), involving the establishment or enforcement of child support, or in any case seeking to modify an existing child support order, where a [hearing commissioner] *magistrate judge* in the [Family Division] *Family Court* of the Superior Court finds that there is an existing duty of support, the [hearing commissioner] *magistrate judge* shall conduct a hearing on support and, within 30 days from the conclusion of the hearing, the [hearing commissioner] *magistrate judge* shall issue written findings of fact and conclusions of law that shall include, but not be limited to, the following:

(1) The name and relationship of the parties;

(2) The name, age, and any exceptional information about the child;

(3) The duty of support owed;

(4) The amount of monthly support payments;

(5) The annual earnings of the parents;

(6) The social security number of the parents;

(7) The name, address, and telephone number of each parent's employer;

(8) The name, address, and telephone number of any person, organization, corporation, or government entity that holds real or personal assets of the obligor; and

(9) A statement that a responsible relative is bound by this order to notify the Court within 10 days of any change in address or employment.

(b) The alleged responsible relative may be represented by counsel at any stage of the proceedings.

(c) If in a case under subsection (a) of this section the [hearing commissioner] *magistrate judge* finds that the case involves complex issues requiring judicial resolution, the [hearing commissioner] *magistrate judge* shall establish a temporary support obligation and refer unresolved issues to a judge, except that the [hearing commissioner] *magistrate judge* shall not establish a temporary support order if parentage is at issue.

(d) In cases under subsections (a) and (c) of this section in which the [hearing commissioner] *magistrate judge* finds that there is a duty of support and the individual owing that duty has been served or given notice of the proceedings under any applicable statute or

court rule, if that individual fails to appear or otherwise respond, the [hearing commissioner] *magistrate judge* shall enter a default order.

(e) Subject to subsection (f) of this section, the findings of the [hearing commissioner] *magistrate judge* shall constitute a final order of the Superior Court.

(f) A review of the [hearing commissioner's] *magistrate judge's* findings in a case under subsections (a) and (c) of this section may be made by a judge of the [Family Division] *Family Court* sua sponte and shall be made upon the motion of 1 of the parties, which shall be filed within 30 days after the judgment. An appeal to the District of Columbia Court of Appeals may be made only after a hearing is held in the Superior Court.

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Chapter 23. FAMILY DIVISION PROCEEDINGS

SUBCHAPTER I. PROCEEDINGS REGARDING DELINQUENCY, NEGLECT, OR NEED OF SUPERVISION

Sec.
16–2301. Definitions.
16–2301.1. References deemed to refer to Family Court of the Superior Court.

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§ 16–2301. Definitions

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§ 16–2301.1 References deemed to refer to Family Court of the Superior Court

Any reference in this chapter or any other Federal or District of Columbia law, Executive order, rule, regulation, delegation of authority, or any document of or pertaining to the Family Division of the Superior Court of the District of Columbia shall be deemed to refer to the Family Court of the Superior Court of the District of Columbia.

VIII. APPENDIX

HISTORY OF THE DISTRICT OF COLUMBIA SUPERIOR COURT

Introduction

The last major restructuring of the District of Columbia court system occurred in 1970. As part of this reform effort, the Senate Committee on the District of Columbia received testimony and studies from a number of groups about how best to proceed. One group, the Ad Hoc Committee on the Administration of Justice, comprised of a group of attorneys and court experts, prepared an extensive report on the history of the District of Columbia court system.[50] The following is a summary of its findings.

Prior to 1970, the original jurisdiction over legal matters in the District of Columbia was split among 3 separate courts: the District

[50] Hearing Report, Committee on the District of Columbia and Subcommittee on Improvements in Judicial Machinery of the Committee on the Judiciary, United States Senate, 91st Congress, First Session, May 19–22, July 25–27, and August 7, 1969, pp. 562–587.

of Columbia Court of General Sessions, the United States District Court for the District of Columbia, and the Juvenile Court. At that time, the jurisdiction of these courts in some cases overlapped and in other cases were fragmented. This appeared to be a result of a long history of reforms in the court system.

United States District Court

The history of the District of Columbia court system began with the Organic Act of 1801 which established a Circuit Court for the District of Columbia. The Circuit Court was given jurisdiction over all federal and local cases, criminal and civil, within the District of Columbia.[51] The Organic Act also established justices of the peace with jurisdiction over all petty civil claims and petty criminal offenses.[52]

In 1802, Congress established a District Court for the District of Columbia. The jurisdiction of the Circuit Court was vested in the newly established District Court; however the decisions of the District Court were appealable to the Circuit Court and the Circuit Court retained original jurisdiction over local cases.[53] Then in 1838, Congress established the Criminal Court of the District of Columbia and gave it original jurisdiction over criminal cases in the District of Columbia. This left the District Court with appellate jurisdiction over criminal cases and original jurisdiction over civil cases.[54] In 1863, Congress created the Supreme Court of the District of Columbia and transferred all of the jurisdiction of the Circuit Court to this new Court. Even though the Criminal Court and the District Court still existed, their powers were also effectively transferred to the Supreme Court.[55]

In 1870, the Criminal Court was formally merged with the Supreme Court but a new criminal court, the Police Court was established. The Police Court was given jurisdiction over the criminal offenses covered by the justices of the peace.[56] This jurisdiction was very limited and included all offenses against the United States not punishable by imprisonment and all offenses against the laws of the District of Columbia. Later, in 1891, the Police Court lost exclusive jurisdiction over these offenses and the Supreme Court was given concurrent jurisdiction with the Police Court.[57]

This new Supreme Court, like the original Circuit Court in 1801, was given appellant and original jurisdiction over federal and local actions. In 1936, the name of the Supreme Court was changed to the District Court for the District of Columbia and, in 1948, District of Columbia was recognized a federal judicial district which resulted in the District Court becoming the official federal court as we know it today.[58]

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[51] Organic Act of 1801, 2 Stat. 103, ch. 15.
[52] Organic Act of 1801, 2 Stat. 103, ch. 15.
[53] Hearing Report, Committee on the District of Columbia and Subcommittee on Improvements in Judicial Machinery of the Committee on the Judiciary, United States Senate, 91st Congress, First Session, May 19–22, July 25–27, and August 7, 1969 ("D.C. Courts Hearing Report"), p. 566 (citing Act of April 29, 1802, ch. 31, sec. 24, 2 Stat. 166).
[54] D.C. Courts Hearing Report at p. 566 (citing Act of July 7, 1838, ch. 192, 5 Stat. 306).
[55] D.C. Courts Hearing Report at pp. 566–67.
[56] D.C. Courts Hearing Report at p. 574 (citing Act of June 17, 1870, 16 Stat. 153).
[57] D.C. Courts Hearing Report at p. 575 (citing Act of March 3, 1891, 26 Stat. 848).
[58] D.C. Courts Hearing Report at p. 567.

District of Columbia Court of General Sessions

Beginning in 1801, the jurisdiction of the justices of the peace established by the Organic Act, increased. They heard small civil claims and over time the amount of claims under their jurisdiction increased and, in 1901, a Justices of the Peace Court was officially established.[59] In 1909, the Justices of the Peace Court was reconstituted as the Municipal Court and, in 1942, the Police Court merged with the Municipal Court giving the Court limited jurisdiction over criminal offenses. Over the years, the size of the civil claims over which the court had jurisdiction increased and, in 1956, the Municipal Court also received general jurisdiction over domestic relations matters (formerly under the jurisdiction of the District Court).[60] In 1962, the Municipal Court was renamed as the District of Columbia Court of General Sessions.[61] This Court, unlike the Circuit and then District Court, had jurisdiction over small civil claims and petty criminal cases in addition to domestic relations. The reason for the gradual increase in jurisdiction was due, in part, to alleviating the increasing caseload in the District Court.

The Juvenile Court

The Juvenile Court was an outgrowth of the Police Court and was established in 1906. This Court was a legal recognition of practices that had occurred in Police Court and in society at the time namely that adult criminal sanctions for juveniles were too harsh.[62] The Juvenile Court was given exclusive jurisdiction over all children under 18 years of age except the court could waive jurisdiction to the United States District Court if the child was over 16 or it was a capital offense. The Juvenile Court also had jurisdiction over paternity and contributing to the delinquency of a minor cases.[63] In 1951, it was given concurrent jurisdiction with the District Court over desertion and criminal non-support cases.[64]

Congressional Review of Court System in 1960s

This process, which began in 1801, culminated in the courts that existed prior to the last major restructuring of the District of Columbia court system in 1970. The District Court for the District of Columbia, although a federal court, still maintained significant jurisdiction over local civil and criminal cases. The District of Columbia Court of General Sessions only had limited jurisdiction over the small civil claims (formerly under the Justice of the Peace Court), minor offenses (formerly under the Police Court), and domestic relations (formerly under the District Court). The Juvenile Court had jurisdiction over minors, paternity cases, desertion and criminal non-support but shared jurisdiction over the latter with the District Court.

In the late 1960s, several commissions were established to review the status of the District of Columbia court system. This was due in large part to a marked increase in crime and the problem of backlog in the United States District Court due to local cases.

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[59] D.C. Courts Hearing Report at p. 573 (citing Act of March 2, 1901, 31 Stat. 1189).
[60] D.C. Courts Hearing Report at p. 575.
[61] D.C. Courts Hearing Report at p. 575.
[62] D.C. Courts Hearing Report at p. 579 (citing Act of March 19, 1906, Ch. 960, 34 Stat. 73).
[63] D.C. Courts Hearing Report at p. 580.
[64] D.C. Courts Hearing Report at p. 580.

Among the Commissions established to review this situation and make recommendations on reforming the court system was the Ad hoc Committee on the Administration of Justice. This committee was assigned the task of reviewing the history of the District of Columbia court system.[65]

This Committee highlighted the problems with the Juvenile Court at the time. They noted that one problem was that the Juvenile Court was not confined to juveniles because it also included adults in criminal non-support cases and paternity cases. It also noted that family matter jurisdiction was fragmented with the District Court having concurrent jurisdiction over criminal non-support and children tried as adults and with the Court of General Sessions having jurisdiction over divorce, separation, annulment, adoption, custody, civil support, and domestic violence. Further, domestic relations cases within the Court of General Sessions were not a division but only a branch of the civil division within the Court.[66]

Because of the fragmentation of family matters in the court system, in 1967, the President's Commission on Crime in the District of Columbia recommended that a Family Court be established to handle all family matters.[67] The Committee on the Administration of Justice recommended consolidating family matters under one umbrella but not as a separate court. The Committee recommended that the juvenile court be made a division of the Court of General Sessions. The reasons included: (1) it would be consistent with the historical trend of developing a local court of general jurisdiction, (2) it would reduce duplication of personnel and other activities, (3) it would reduce scheduling conflicts for police, attorneys, clients, and witnesses, and (4) it would increase the quality of judges serving.[68] Specifically, they noted:

> Having a larger pool of judges who could move in and out of the Juvenile division and other parts of the court would broaden a judge's judicial experience, keep him abreast of general development of the law, and ensure a higher quality of judiciary, because judges who might refuse to specialize in a steady diet of one aspect of the law would be willing to serve for shorter periods of time.[69]

The Committee also noted that, "[t]he Juvenile Court has been in trouble for many, many years, and is at the moment in serious trouble. It lacks strength and cannot be adequately managed since it is not a part of the central court system of our city."[70]

The Committee further quoted Roscoe Pound, rejecting a further splintering of the court system: "Multiplicity of courts is characteristic of archaic law."[71] When specifically describing the domestic relations branch of the Court of General Sessions, the Committee noted that it had its own list of judges, clerks, and is separately run from the Court in general. The Committee criticized the then-current system by stating that the chief judge "has no power

[65] D.C. Courts Hearing Report at p. 562.
[66] D.C. Courts Hearing Report at p. 562.
[67] D.C. Courts Hearing Report at p. 581.
[68] D.C. Courts Hearing Report at p. 581.
[69] D.C. Courts Hearing Report at p. 581.
[70] D.C. Courts Hearing Report at p. 583
[71] D.C. Courts Hearing Report at p. 582.

to rotate judges in and out of the domestic relations branch" and recommended support for doing away with this restriction.[72]

In addition, to address what it regarded as the "wasteful, disfunctional institutional defects" [sic] in the court system at the time,[73] Senate Committee on the District of Columbia issued its own 893–page publication which consisted of the record of hearings on court reorganization. Most of the problems the Committee highlighted related to the crime increase and backlog as well as the effect of the fragmentation of the courts.

Based upon years of review by various Commissions, including the Committee on the Administration of Justice and the Senate Committee on the District of Columbia, Congress passed the District of Columbia Court Reform and Criminal Procedure Act of 1970. That Act created the District of Columbia court system that exists today. The Act vests judicial power over local legal matters in the District of Columbia Superior Court and the Court of Appeals for the District of Columbia. The District of Columbia Superior Court became the court of general jurisdiction and the District of Columbia Court of Appeals was made the highest court of the District of Columbia, whose decisions are appealable to the United States Supreme Court.[74]

Current court system

Through Congress' review of the court system in the 1960s, the current process for the appointment of the judges was developed. The District of Columbia Superior Court was established as a court of general jurisdiction, with five branches: family, civil, criminal, tax and probate. Currently, the Superior Court is composed of 58 judges and one chief judge. In addition to its five divisions, it recently established a cross-jurisdictional domestic violence unit. In an average year, the Court may dispose of upwards of 160,000 cases, with 14,000 in the family division alone.

Currently, Superior Court judges, who are appointed for a total term of 15 years, fit the model recommended by the Ad Hoc Committee on the Administration of Justice: they are generalists who serve extendable one-year terms in the different divisions of the Court, with assignments left to the discretion of the chief judge. Each one of the 59 judges has some of the current caseload of the approximately 4,500 abuse and neglect cases on their dockets, even if they have never sat on the family division bench.

The judges must go through a rigorous process unlike judges in other local jurisdictions. They are thoroughly screened by the District of Columbia Judicial Nomination Commission, the President (including investigations by the Federal Bureau of Investigation), and the Senate. In addition, during their tenure on the bench, they are continually monitored by the Judicial Disabilities and Tenure Commission. This process was carefully evaluated and rec-

[72] D.C. Courts Hearing Report at p. 582.

[73] "Reorganizing the Courts of the District of Columbia, and for Other Purposes" (Report No. 91–405, Accompanying S. 2601), Committee on the District of Columbia, September 16, 1969, p. 3.

[74] Since then, the local District of Columbia court system experienced other changes through the District of Columbia Self-Government and Governmental Reorganization Act of 1973 (Home Rule Act), P.L. 93–198, 97 Stat. 779, the District of Columbia Prosecutorial and Judicial Efficiency Act of 1985, P.L. 99–573, and the National Capital Revitalization and Self-Government Improvement Act of 1997 (1997 Revitalization Act), D.C. Code sec. 4–192 [recodified in 2001 as D.C. Code sec. 5–133.17].

ommended by the Ad Hoc Committee on the Administration of Justice and Congress when reorganizing the Court in 1970.

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